

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:20-cv-394-MOC-WCM

LOUIS D. GIBSON,)
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)
Plaintiff, pro se,)
)
)
vs.)
)
)
GILES CHEMICAL CORPORATION,) ORDER
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)
Defendant.)
)
)

THIS MATTER is before the Court on its own motion. This is an employment discrimination action, filed by pro se Plaintiff Louis Gibson against his former employer Giles Chemical Corporation.

On April 20, 2021, the Court entered an Order staying this action pending arbitration between the parties. Plaintiff appealed to the Fourth Circuit Court of Appeals. On August 26, 2021, the Fourth Circuit dismissed Plaintiff's appeal. The Fourth Circuit issued its mandate on September 17, 2021.

On November 3, 2021, this Court entered an order requiring Plaintiff to notify the Court whether he has initiated arbitration proceedings. Plaintiff has responded, stating, among other things, that he has not initiated arbitration proceedings because it's too costly for him to do so. However, as Defendant notes in its Reply, Plaintiff has not provided any evidence showing the relative costs of arbitration versus litigation and his ability to pay. See Green Tree Fin. Corp.-Ala v. Randolph, 531 U.S. 79, 90–92 (2000). In other words, Plaintiff has not presented any evidence showing that requiring him to arbitrate would be unduly burdensome to him. Here, the Court has already found that the parties are subject to binding arbitration. Plaintiff does not have the option

of litigating over arbitration. If Plaintiff fails to initiate arbitration proceedings within the next thirty days, the Court will therefore dismiss this action for failure to prosecute under Rule 41 of the Federal Rules of Civil Procedure.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff shall initiate arbitration proceedings within the next thirty days, and Plaintiff must notify the Court when he has done so. If Plaintiff fails to initiate arbitration within thirty (30) days and inform the Court that he has done so, the Court will dismiss this action for failure to prosecute and without further notice to Plaintiff.

Signed: December 7, 2021


Max O. Cogburn Jr.
United States District Judge